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8   UNITED STATES DISTRICT COURT

9   EASTERN DISTRICT OF CALIFORNIA

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11   GUILLERMO NUNO,   No. 1:21-cv-00769-KES-SAB (PC)

12   Plaintiff,   ORDER GRANTING PLAINTIFF'S MOTION
                                                  FOR LEAVE TO FILE A SUR-REPLY
13   v.
                                                  (ECF No. 110)
14   D. ESLICK, et al.

15   Defendants.

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17   Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42

18   U.S.C. § 1983.

19   On March 8, 2024, Defendants filed a motion for summary judgment. (ECF No. 82.)

20   After receiving three extensions of time, Plaintiff filed an opposition on August 2, 2024, and

21   Defendants filed a reply on September 20, 2024. (ECF Nos. 106, 109.)

22   Currently before the Court is Plaintiff's motion for leave and copy of a sur-reply, filed

23   October 7, 2024.[1] (ECF No. 110.) Defendants did not file an opposition and the time to do has

24   passed. Local Rule 230(l).

25   The Local Rules provide for a motion, an opposition, and a reply. See Local Rule 230(l).

26   There is nothing in the Local Rules or the Federal Rules that provides the right to file a sur-reply.

27   The court generally views motions for leave to file a sur-reply with disfavor. Hill v. England, No.

28   _____
     [1] The sur-reply is attached to Plaintiff's motion. (ECF No. 110.)

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1   CVF05869 REC TAG, 2005 WL 3031136, at *1 (E.D. Cal. 2005) (citation omitted). However,

2   district courts have the discretion to either permit or preclude a sur-reply. See JG v. Douglas

3   County School Dist., 552 F.3d 786, 803 n.14 (9th Cir. 2008) (district court did not abuse

4   discretion in denying leave to file a sur-reply where it did not consider new evidence in reply).

5   In light of Plaintiff's pro se status and the fact that in their reply Defendants have filed

6   objections and moved to strike several pieces of evidence submitted in support of Plaintiff's

7   opposition, the Court will grant Plaintiff's motion to file a sur-reply which will be considered

8   when ruling on Defendants' pending motion for summary judgment.

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10   IT IS SO ORDERED.

11   Dated: **November 7, 2024**   _____
                                                              STANLEY A. BOONE
12   United States Magistrate Judge

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